

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

To:

HEY

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WPTS ✓

see form PCT/ISA/220

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Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference

see form PCT/ISA/220 CH9-2003-0025

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/IB2005/000250

International filing date (day/month/year)

28.01.2005

Priority date (day/month/year)

03.02.2004

International Patent Classification (IPC) or both national classification and IPC

G06F1/00

Applicant

INTERNATIONAL BUSINESS MACHINES CORPORATION

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/B2005/000250

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2005/000250

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
- ☒ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☐ not paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☒ all parts.
 - ☐ the parts relating to claims Nos.

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-33
	No: Claims	
Inventive step (IS)	Yes: Claims	1-11,21-22,25-26,29-30
	No: Claims	12-20,23,24,27,28,31-33
Industrial applicability (IA)	Yes: Claims	1-33
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1 Reference is made to the following document:

D1: EP-A-1 231 532 (SONY CORPORATION) 14 August 2002 (2002-08-14)

D2: XP002349298

2 The application does not meet the requirements of unity of invention as defined in Rules 13.1 and 13.2 PCT. The reasons therefor are the following:

The common corresponding features defined in all the independent claims 1, 12, 21-32 are disclosed by D1 (the references in parentheses applying to this document) and therefore not novel:

- a software licence management system in which a licence to use a software product (paragraph 72, "content") is represented by a data token (paragraph 72, "a license")
- a software controller (claim 10) for controlling use of a software product at a user device (figure 2; paragraph 28, "the client")
- a licence management server for communicating with the software controller via a data communications network (figure 1, license server 4; paragraph 25) wherein the software controller is adapted, for
- allowing said use of the software product substantially only during a use period associated with a current data token supplied to the software controller by the licence management server (paragraph 72-76, "a license ... deadline before content can be downloaded")
- an exchange token (paragraph 227, "a license can be ... copied")

In conclusion, the claims are not linked by common or corresponding special

technical features and define different inventions not linked by a single general inventive concept.

This Authority considers that there are 2 inventions covered by the claims indicated as follows:

I: Claims 1-11, 21-22, 25-26, 29-30, 33 (when referring to other claims of this group) directed to a software license management system and method utilising a software controller for controlling use of a software product, a license management server communicating with the software controller, an user accessible exchange token depending on a current data token representing a license with an use period to use the software product. The problem to be solved is to let the user to transfer licenses between devices while enforcing single-instance licenses.

II: Claims 12-20, 23-24, 27-28, 31-32, 33 (when referring to other claims of this group) directed to software license management system and method utilising a software controller for controlling use of a software product, a license management server communicating with the software controller, an exchange token associated with said license, and a current token representing said license with a use period to use the software product. The problem to be solved is to enable, without user necessarily accessing an exchange token, a license transfer and single-instance licenses.

FIRST INVENTION

3 The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and shows (the references in parentheses applying to this document):

- a software licence management system in which a licence to use a software product (paragraph 72, "content") is represented by a data token (paragraph 72, "a license")
- a software controller (claim 10) for controlling use of a software product at a user device

(figure 2; paragraph 28, "the client")

- a licence management server for communicating with the software controller via a data communications network (figure 1, license server 4; paragraph 25) wherein the software controller is adapted, for
- allowing said use of the software product substantially only during a use period associated with a current data token supplied to the software controller by the licence management server (paragraph 72-76, "a license ... deadline before content can be downloaded")
- enabling user access to an exchange token, dependent on the current data token supplied by the licence management server, whereby the exchange token can be supplied as a current data token to another said software controller (paragraph 227, "a license can be ... copied")

The subject-matter of claim 1 differs from this known D1 in that claim 1 specifies the exchange of the current and the exchange token with an exchange server for a new data token with a new use period associated therewith by detecting if a said token received from the software controller for exchange corresponds to a token already exchanged by the license management server.

The subject-matter of claim 1 is therefore new (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as to enable the extension of the license periods and transfer of licenses between devices while enforcing single-instance licenses.

No available prior art suggests the usage of the user accessible exchange token dependent on the current token with the license management server as in claim 1. The present application is therefore considered as involving an inventive step (Article 33(3) PCT).

4 The special technical features of the independent claims 21-22, 25-26, 29-30

correspond essentially to the special technical features of claim 1. The claims 21-22, 25-26, 29-30 are therefore also inventive.

- 5 Claims 2-11 are dependent on claim 1 and claim 33 is dependent on claims 25-26 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

SECOND INVENTION

- 6 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 12, 23, 24, 27, 28, 31 and 32 does not involve an inventive step in the sense of Article 33(3) PCT. The reasons therefor are the following:

The document D2 is regarded as being the closest prior art to the subject-matter of claim 12, and discloses (the references in brackets applying to this document):

- a software licence management system (50) in which a licence [p. 319, "license"] to use a software product (55) is represented by *a data token* (56) [p. 1, "enables vendors to implement license management in an application; p.2, p. 319, "license enabled product ... license password"] the system comprising:
- a software controller (52a) for controlling use of a software product (55) at a user device (53) [p. 1, "License Use Management Runtime"; p. 16, table 3, "License User Management Runtime on the workstation"; p. 320, "network license client"]; and
- a licence management server (51) [p. 320, "network license server"; figure 7, p. 27, "Network License Server"] for communicating with the software controller (52a) via a data communications network (54) [p. 1, "License Use Management Runtime" at the network license client; figure 14; p. 320, "Network License ... License Use Management Runtime client"]

wherein the software controller (52a) is adapted for

- allowing said use of the software product (55) substantially only during a use period associated with a current data token (56) [p. 8, "... certain number of days ... When the concurrent-offline license has been reserved for use, a copy is installed on a portable computer connected to the network. This copy of the concurrent-offline license is called an offline-nodelocked license."; p. 27, step 2, "offline-nodelocked license in its nodelocked file"; p. 200, "MaxOfflineDuration"; p. 320, "offline-nodelocked license"] supplied to the software controller by the licence management server (51)

- receiving an exchange token (57) associated with said licence, [p. xix, "For concurrent-offline licenses the authorization can also be based on the end-user machine target ID and optionally secured by a password."; p. 27, step 4, "authorisation for the user, group, or target ID of the machine and validates the password"; p. 199, "multi-usage specification"; Note: the information that the client provides (and implicitly has received) to the server to authorize the usage of the license corresponds here to the exchange token, i.e. to entitlement to use the software that has not yet been activated] 2

- supplying one of the current data token (56) and the exchange token (57) via the network (54) to the licence management server (51) to be exchanged for a new data token (a) to extend the licence for the software product beyond the use period associated with a current data token (56) supplied by the licence management server and (b) if a said exchange token (57) is received by the software controller in the absence of a current data token (56); [p. 27, step 3, "application requests a concurrent offline license from it"; p. 27, step 4, "authorisation for the user, group, or target ID of the machine and validates the password"; Note: here the authorisation data is the exchange token]

- and wherein the licence management server (51) is adapted for

- storing the use period for each data token (56) supplied to the software controller (52a) under the licence [p. 27, step 5, "...The license is marked as in use on the server."]

- supplying via the network (54) to the software controller (52a) a new data token in exchange [p. 27, step 5, "... the server creates an offline-nodelocked license and copies it to the nodelocked file of the portable computer."]

- for a current data token (56), or said exchange token (57), received from the software controller, the new data token having a new use period which does not overlap the use period of a data token previously-supplied under the licence [implicit], *if the maximum concurrent uses has been reached*

The subject-matter of claim 12 therefore differs from this known D2 in that: claim 1 prohibits always concurrent uses. D2 prohibits only if the maximum allowed concurrent uses according to the license has been reached.

The problem to be solved by the present invention may therefore be regarded as how enable license transfer between devices while enforcing single-use license.

The solution proposed in claim 12 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

The problem to be solved is an indication for the skilled person to consider how the platform of D2 can be configured to achieve the technical effects of claim 1.

It is obvious to the skilled person that by setting the limit of concurrent-offline licenses to zero the system of D2 let only one instance of software running at a time but still enables license transfer between workstations that are authorized to that concurrent license.

The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent claims 23, 24, 27, 28, 31 and 32, which therefore are also considered not inventive.

- 7 Dependent claims 13-20 and 33 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step, see document D2 and the corresponding passages cited in the search report.

The features of the dependent claims are obvious design options for the skilled person.

- 8 If the applicant wishes the further prosecution of the application, the following points are also to be considered:
- 8.1 The usage of an indefinite term "a current data token" on lines 19 and 24 of claim 1 and on lines 22 and 29 of claim 12 appears to be a mistake.
- 8.2 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 is not mentioned in the description, nor are the documents identified therein.
- 8.3 Independent claims are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (D1) being placed in the preamble (Rule 6.3(b)(I) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).